

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**February 20, 2003**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 20, 2003, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; Don Anderson; Elizabeth Bishop; Bill Johnson; Ron Marnell; Harold Warner; Ray Warren; and David Wells. James Barfield, Dorman Blake; Frank Garofalo; John McKay, Jr.; and Jerry Michaelis were not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely Associate Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

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**1. Approval of MAPC meeting minutes of February 6, 2003.**

**MOTION:** That the minutes for February 6, 2003 be approved.

**WARNER** moved, **COULTER** seconded the motion, and it carried (9-0).

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**2. Consideration of Subdivision Committee Recommendations**

Items 2-1 through 2-4 may be taken in one motion unless there are questions or comments.

**2-1. SUB2002-142 – Final Plat –HILLTOP MANOR THIRD ADDITION, located north of Harry and west of Oliver.**

- A. Municipal services are available to serve the site.
- B. As indicated by the plat, a temporary easement by separate instrument needs to be submitted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan may need to be revised. In the event drainage improvements are needed, they may be part of the paving petition.**
- E. The Applicant shall guarantee the paving of the proposed street. The Applicant has platted a 21-ft wide public street. This street width is permitted with a minimum 50-ft right-of-way. A modification will need to be approved by the Subdivision Committee. **A modification has been granted.**
- F. The applicant shall submit a covenant which provides for two (2) off-street parking spaces per dwelling unit on each lot which abuts a narrow street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- G. The Applicant has platted 15-ft building setbacks, which represents an adjustment of the Zoning Code standard of 20 feet for the B, Multi-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **The modification has been approved.**
- H. The **City Fire Department/GIS** needs to comment on the plat's street names. **The street names are approved.**
- I. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development

of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MARNELL** moved, **WELLS** seconded the motion, and it carried (9-0).

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**2-2. SUB2002-30 Final Plat – LA DEL MANOR ADDITION, located on the north side of Maple and on the west side of 167<sup>th</sup> Street West.**

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering has requested a private storm sewer extension which will be needed at time of site development. The drainage plan is approved.**
- D. The plat proposes one access opening along the south property line. **The access controls are approved.**
- E. A restrictive covenant shall be submitted that permits future cross-lot access with the abutting property owner to the south.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. **County Surveying** requests that the bearing along the west line of the original tract needs corrected. In addition, a bearing is needed along the west line of Lot 1, Block 1.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps

of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MARNELL** moved, **WELLS** seconded the motion, and it carried (9-0).

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**2-3. SUB2003-06- One-Step Final Plat – SEAL PAK ADDITION, located north of 21<sup>st</sup> Street and on the west side of Hoover.**

- A. A petition for water services has been previously submitted. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. City Engineering needs to comment on the need for other guarantees or easements. **An off-site sewer easement may be needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Improvements will be needed at time of site development.**
- D. The plat proposes one access opening along Hoover Road. Distances should be shown for all segments of access control. **An access opening with full-turning movements is approved to be located 210 feet from the north property line. A contingent right-in/out driveway is allowed on the north property line that would be shared with the adjacent north property owner upon replatting of this property for a future non-residential development. A restrictive covenant shall be submitted that permits future joint access with this abutting property owner.**
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #119) and its special conditions for development on this property.
- G. **The final plat shall be submitted with a revised name as an Addition now within Wichita exists with the name "Sealpak Addition".**
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MARNELL** moved, **WELLS** seconded the motion, and it carried (9-0).

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3. **Case No. ZON2002-73** – D & M Enterprises c/o Dennis Niecens (owner/applicant) request Zone change from "GC" General Commercial and "SF-5" Single-Family Residential to "GC" General Commercial on property described as:

Lot 13, Clarkdale Subdivision. Generally located South of 61<sup>st</sup> Street South and east of Seneca.

**BACKGROUND:** The applicant requests a zone change from "GC" General Commercial and "SF-5" Single-Family Residential to "GC" General Commercial on a 0.94 acre platted tract located south of 61<sup>st</sup> Street South and east of Seneca. The applicant has not determined a specific use for the subject property other than to state that the rezoning is requested to permit the construction of commercial buildings and that the "GC" General Commercial zoning district was specifically requested to allow for the potential to develop an auto-body shop.

The surrounding area is characterized primarily by suburban residential uses, with a few commercial uses along the Seneca corridor between 55<sup>th</sup> Street South and 63<sup>rd</sup> Street South. Most of the properties in the area are zoned "SF-5" Single-Family Residential and are developed with single family residences. Several residentially developed and vacant properties along Seneca are zoned "GC" General Commercial and "LC" Limited Commercial, including the two vacant lots immediately north of the subject property, which are owned by the applicant. Vehicle repair businesses on property zoned "GC" General Commercial are located one-half block to the south on the west side of Seneca. The other two commercial businesses in this area are located one-quarter mile to north on the west side of Seneca. These businesses are a nursery and garden center on property zoned "GC" General Commercial and a manufacturing business on property zoned "LI" Limited Industrial.

**CASE HISTORY:** On March 23, 1958, the zoning for the subject property was first established as "R-1" Suburban Residential (now "SF-20"). At that time, the western third of the subject property was used as a salvage yard and vehicle sales lot in conjunction with the two lots to the north. Upon zoning of the subject property the salvage yard and vehicle sales lot became non-conforming uses.

In 1963, the property owner requested "F" Heavy Industrial (now "GI") for the western third of the subject property and the two lots to the north in an attempt to make the salvage yard and vehicle sales lot conforming uses. On April 18, 1963, the Board of County Commissioners denied the request for "F" Heavy Industrial and instead approved "C" Commercial (now "GC") zoning for the western third of the subject property. The decision was made in order to make the vehicle sales lot, but not the salvage yard, a conforming use.

In 1988, Sedgwick County condemned a portion of the subject property and constructed a drainage ditch through the property. The drainage ditch cuts through the portion of the subject property zoned for commercial uses and limits access to the portion of the subject property zoned for residential uses to cross-lot access from the abutting property to the north.

By 1991, the salvage yard had illegally expanded onto the western two-thirds of the subject property, which was still zoned "R-1" Suburban Residential. At that time, the County Zoning Administrator determined that if the western two-thirds of the subject property were to be zoned "C" Commercial that the expansion would be considered a legal expansion of a non-conforming use. Therefore, the property owner requested "C" Commercial zoning for the western two-thirds of the subject property, but the request was denied by the Board of County Commissioners on October 23, 1991 because the Board did not want to legitimize the non-conforming salvage yard.

The salvage operation continued on the subject property as a non-conforming and partially illegal use that received notices of violation due to complaints from neighboring property owners. On May 3, 1999, the subject property was struck by a tornado and damaged to an extent greater than 50% of its value, thus losing its non-conforming use status as a salvage yard. On March 24, 2000, the subject property was annexed into the City of Wichita at which time the zoning of the western two-thirds of the subject property was changed to "SF-6" Single Family (now "SF-5"). The City of Wichita pursued removal of the salvage yard from the property since the use was no longer a legal non-conforming use. The subject property was subsequently cleaned up and sold to the present owner, who has requested "GC" General Commercial zoning to permit unspecified commercial uses on the subject property.

**ADJACENT ZONING AND LAND USE:**

NORTH: "GC" Vacant  
SOUTH: "SF-5" Single-family  
EAST: "SF-5" Single-family  
WEST: "SF-5" Single-family

**PUBLIC SERVICES:** The subject property has frontage along Seneca, a four-lane arterial street with current traffic volumes of approximately 7,100 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Seneca will increase to approximately 8,700 vehicles per day and recommends that Seneca remain a four-lane arterial street.

Since the use of the subject property has not been identified, planning staff cannot determine the number of trips to be generated by the subject property in the peak hour; however, uses permitted in the requested "GC" General Commercial zoning district have the potential to generate traffic in excess of 500 trips in the peak hour, which would require the applicant prepare a traffic impact study and possibly install traffic improvements prior to developing the property.

Public water and sewer service are not readily available to be extended to the subject property. Therefore, any development of the subject property would likely occur with on-site water and sewer facilities, and commercial development utilizing on-site facilities has a significant potential to lead to ground-water pollution.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Future Development Concept Map in the South Wichita/Haysville Area Plan shows this area as appropriate for "Residential" development. The proposed zoning for the subject property does not conform with either of these land use guides, which recommend that commercial development in this area should be located in compact clusters or nodes at the intersection of two arterial streets. In fact, the South Wichita/Haysville Area Plan was adopted for the express purpose of promoting stabilization and revitalization of the area. The vision of this plan for subject property and the surrounding area is that it would be revitalized with residential uses.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets and have site design features that limit noise, lighting, and other aspects of commercial activity from adversely impacting surrounding residential uses. The Commercial Locational Guidelines also recommend that commercial uses locate in compact clusters or nodes versus strip developments and that any commercial uses not located in planned centers or nodes be located on the fringe of the central business district, along Kellogg, or in areas where similar development exists. While the subject property is located along an arterial street, the proposed zoning request would further a strip development pattern, which exists only to a limited extent along Seneca in this area, and does not conform to the Commercial Locational Guidelines.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by suburban residential uses, with only a few commercial uses along the Seneca corridor between 55<sup>th</sup> Street South and 63<sup>rd</sup> Street South. Commercial and industrial zoning exists in the area, but the amount of zoning is limited and exists in a strip development pattern contrary to adopted plans and policies for the area. Further strip commercial zoning along Seneca in this area is inconsistent the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "GC" General Commercial and "SF-5" Single-Family Residential. The subject property is suitable for commercial development along Seneca and is suitable for development with residential and permitted institutional uses on the east side of the drainage ditch.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If residential development of the subject property occurs consistently with the revitalization vision contained in the South Wichita/Haysville

area plan, the residential development likely would entail the extension of public water and sewer service to the area and combining the subject property with adjacent tracts to allow for an urban density of development. Changing the zoning of the subject property to "GC" General Commercial zoning would permit uses that are incompatible with residential uses and will make the already daunting task of revitalization even more difficult.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed zoning for the subject property does not conform to adopted plans and policies for the area. Both the Comprehensive Plan and the South Wichita/Haysville Area Plan identify the subject property as appropriate for residential development, rather than the proposed commercial development. Additionally, the Locational Guidelines of the Comprehensive Plan recommend against the type strip commercial development that the proposed rezoning would entail.
5. Impact of the proposed development on community facilities: The requested change would expand commercial land uses to an area lacking appropriate community facilities. On-site water and sanitary sewer service for a commercial business at this location would lead to a significant potential for groundwater pollution, especially since the site is located within an area prone to shallow ground water. The right-of-way width for Seneca is 20 feet less than the standard set by the Subdivision Regulations, which could make any necessary traffic improvements difficult to achieve. The lack of access control along Seneca and the absence of a cross-lot access agreement could make it difficult to establish appropriate access to the subject property.
6. Opposition or support of neighborhood residents: Rezoning of the subject property to permit commercial uses has received consistent opposition from neighborhood residents. The 1991 request for "C" Commercial zoning was protested by five neighboring property owners and was denied by the Board of County Commissioners. At the time this report was prepared, 13 neighboring property owners had filed protest petitions (see attached) in opposition to request for "GC" General Commercial zoning.

**ALTERNATIVE ACTION:** In recognition of the difficulties and uncertainties involved with the ambitious revitalization efforts envisioned by the South Wichita/Haysville Area Plan, planning staff has identified an alternative action that may be taken; however, this alternative action is inconsistent with adopted plans and policies for the area and is not recommended by planning staff, who instead support allowing time for the adopted plans and policies to be implemented in this area. The alternative action is to approve "OW" Office Warehouse zoning for the subject property instead of the "GC" General Commercial zoning requested. While such an action would further the strip commercial development of Seneca, it would "step-down" the zoning as it nears residential properties, a practice which is generally recognized as a good planning principle. The alternative action should be subject to replatting the property so that access, traffic improvement, drainage, and utility issues can be addressed. The alternative action can be based on the following alternative findings:

1. The zoning, uses and character of the neighborhood: The subject property is partially zoned for commercial uses and abuts property to the north that is owned by the applicant and also is zoned for commercial uses. While this commercially zoned property does not currently contain commercial uses, the property has been developed with commercial uses in the past. Future commercial use of the subject property is consistent with the limited pattern of strip commercial development that exists along Seneca in this area.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is somewhat unique in that it is partially zoned for commercial uses, is divided by a drainage ditch, and is presently limited to cross-lot access from the commercially-zoned property to the north. These unique circumstances limit the desirability of the subject property for low-density residential uses. The "OW" Office Warehouse zoning district is intended to accommodate office and warehousing activities for the building trades and similar business that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The subject property is suitable for the intended purposes of the "OW" Office Warehouse zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the buffer, screening, and street yard requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting these properties. Additionally, the "OW" Office Warehouse zoning district has more stringent development standards in terms of screening, setbacks, and building height than the requested "GC" General Commercial zoning district. The "OW" Office Warehouse zoning district also does not permit auto-oriented and intensive retail uses that are most incompatible with residential uses.
4. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, traffic improvements, and utility extensions are provided for through the platting process.

DONNA GOLTRY, Planning staff presented the staff report.

WARREN We are looking at Lot 13?

GOLTRY Yes.

D & M ENTERPRISES, C/O DENNIS NIEDENS, 1143 N. DENENE, WICHITA, KS 67212 I am in agreement with the recommendation to be rezoned to "OW" Office Warehouse.

GOLTRY There were protests from surrounding property owners to the "GC" General Commercial rezone but not to the "OW" Office Warehouse rezoning.

WARREN I know that staff recommended denial on "GC". Is staff in agreement with the "OW" Office Warehouse zoning?

GOLTRY Yes, staff is in agreement with the "OW" Office Warehouse zoning.

COULTER Anybody against the "OW" Office Warehouse zoning?

GOLTRY The vote at the District Advisory Board meeting was 5-1 to approve the "OW" Office Warehouse rezoning and nobody showed from the neighborhood to oppose the revised request.

**MOTION:** To deny the zone change request for "GC" General Commercial and approve the zone change to "OW" Office Warehouse and subject to conditions contained in staff's alternative recommendation of replatting within one year.

**WARREN** moved, **ANDERSON** seconded the motion, and it carried (9-0).

4. **Case No. ZON2003-01-** Martinson Place L.L. C. c/o Donald Vaughn (owner/applicant) request Eliminate Restrict Covenant #18 to allow converting existing garage building into one bedroom on property described as:

Beginning at a point 865.0 feet east of the northwest corner of the Southwest Quarter of Section 19, Township 27 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas; thence east to the east line of the west half of said Southwest Quarter; thence south 240.0 feet, thence west to a point 865.0 feet east of the west line of said Quarter Section; thence north 240.0 feet to the place of beginning, EXCEPT a strip of ground 40 feet wide off of north side to be used as public street; ALSO a strip of ground 40 feet wide off of west side to be used for street; ALSO a strip of ground 50 feet wide off of east side, the east half of which is to be used for street and the west half for parking EXCEPT 10 feet of west side for sidewalk; ALSO a strip of ground 9 feet off of south side, said piece and parcel of ground to be used for a public highway. Generally located South of Second Street North and west of Athenian (249 N. Athenian).

**BACKGROUND:** The applicant requests elimination of Restrictive Covenant #18 (see attached) on an unplatted, 1.54-acre site. The purpose of the request is to allow for the conversion of an existing detached garage to an apartment dwelling unit.

The Martinson Elementary School site was rezoned in 1992 from "A" Two-Family to "R-5" General Residence; subsequent *Uniform Zoning Code* (UZY) updates resulted in "MF-18" zoning which permits 18 dwelling units per acre. Several neighbors opposed the 1992 zone change, citing concerns with neighborhood character and traffic. Restrictive Covenant #18 was put in place to limit the multi-family development to 10 units, all within the existing school building. The Restrictive Covenant further specifies that the restrictions shall not be changed or terminated without a public hearing before MAPC and the Wichita City Council, and legal notification to surrounding property owners - just as in zone change cases. Changes or termination of the Restrictive Covenant requires approval by City Council.

The application area is currently developed with 8 apartments within the Martinson School building. Most of the properties surrounding the application area are zoned "SF-5", and developed with single-family residences. Much of the surrounding Delano Neighborhood recently rezoned from "TF-3" to "SF-5". Northeast of the site is property zoned "LI" Limited Industrial, and developed with commercial and limited industrial uses.

The proposed conversion apartment is located adjacent to a platted alley. An apartment conversion would require conformance to all property development standards in the Wichita-Sedgwick County *Unified Zoning Code* (UZY), and would require conformance to City building codes.

**CASE HISTORY:** The Martinson School was built in 1910 on the unplatted site; it was used as a public and then a private school. The site was rezoned from two-family zoning to medium density multi-family zoning in 1992, subject to Restrictive Covenant #18.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3" & "SF-5"	single-family homes
SOUTH:	"TF-3" & "SF-5"	single-family homes
EAST:	"TF-3" & "SF-5"	single-family homes

WEST: "TF-3" & "SF-5"

single-family homes

**PUBLIC SERVICES:** The property is located south of Second Street North and west of Athenian with one access point from Athenian. Second is a two-way paved street with a 70-foot right-of-way in the vicinity of the application area. Athenian is a paved local street with a planted median, and a 100-foot right-of-way. The traffic count on this section of Second in March 2002 was 6,146 ADTs; no traffic projections are available for this section of Second. No traffic count or projection is available for Athenian. City water and sewer are available at the application area.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as "Low Density Residential", although the site is zoned "MF-18" Multi-family residential. The UZC states that the "MF-18" district is intended to accommodate the development of moderate-density, multi-family residential development and complementary land uses; and that the district is generally compatible with the "High-density Residential" designation of the *Comprehensive Plan*.

The Wichita-Sedgwick County Comprehensive Plan *describes several goals, objectives, and strategies to encourage mixed-income, residential infill redevelopment - at densities that maximize public investment in existing and planned facilities. The Comprehensive Plan goes on to call for "...architectural review to ensure compatibility with surrounding low-density residential areas."*

The Comprehensive Plan "*Wichita Residential Area Enhancement Strategy*" designates the application area as within the "Revitalization Area". The "Revitalization Area" is defined as "Neighborhoods that need to be stabilized (correction of housing deterioration), rehabilitated and made more attractive for private investment, including development of well designed infill housing."

The application area is within the Delano Neighborhood Plan area. The *Delano Neighborhood Revitalization Plan*, adopted by City Council and the Board of County Commissioners in March of 2001, calls for "Development of underutilized resources", including "abandoned or underutilized buildings for use as housing, commercial and office space."

**RECOMMENDATION:** When the application area was rezoned to multi-family zoning in 1992, the existing Restrictive Covenant #18 was necessary to ensure that development would be compatible with the surrounding single-family neighborhood. As a result, the adaptive re-use for apartments preserved a landmark neighborhood school building, and provided quality rental apartments within the neighborhood. The UZC now allows for a Protective Overlay, which may be better suited than restrictive covenants to ensure compatible development.

The site currently has eight apartments within the school building on the 1.54-acre site; this existing developed density is lower than much of the surrounding single-family development. The existing "MF-18" zoning is a moderate density zoning district, allowing up to 18 dwelling units per acre. Because of its location and scale, the proposed garage conversion apartment is in character with surrounding detached garages and permitted accessory apartments.

This request can be in general conformance with all plans and policies if a method is in place to ensure that residential development is designed to be compatible with surrounding single-family residences.

Based upon information available prior to the public hearings, planning staff recommends that the request to eliminate Restrictive Covenant #18 be APPROVED subject to the following Protective Overlay.

1. All development on the property shall be designed to be compatible with the surrounding single-family neighborhood in development pattern, scale, materials, forms, colors, and character.
2. Site plans and building elevations shall be submitted to the Planning Director, and approved prior to issuing building permits.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most properties surrounding the application area are zoned "SF-5" and "TF-3" and developed with single-family residential uses. Detached garages and accessory apartments are in character with the surrounding neighborhood. The existing apartment project is in character with the surrounding neighborhood; the proposed Protective Overlay should ensure that any future development is in character with the surrounding neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The "MF-18" zoned property has been developed with multi-family residential uses, restricted by the existing Restrictive Covenant #18. The application area cannot expand beyond the existing apartment units under the current Restrictive Covenant.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed elimination of Restrictive Covenant #18 will allow for conversion of an existing detached garage into an apartment unit; this conversion is in character with the surrounding neighborhood. The proposed Protective Overlay should ensure that any future development is in character with the surrounding neighborhood. The proposed elimination of the restrictive covenant, and the proposed development, should have no detrimental affect on nearby property.



4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request is in general conformance with the *Comprehensive Plan*, the *Delano Neighborhood Revitalization Plan*, and the intent of the UZC.
5. Impact of the proposed development on community facilities: This request will result in a negligible increase in dwelling units, and therefore traffic on Second Street and Athenian, but it should have no measurable impact on community facilities.

JESS MCNEELY, Planning Staff presented the staff report. The applicant is in agreement with staff to eliminate Restrictive Covenant #18, and to do a Protective Overlay. District Advisory Board VI approved this request at their meeting on 2-19-03.

DON VAUGHN, MARINSON PLACE, LLC, 249 N. ATHENIAN, WICHITA KS 67203, applicant. We bought the property in February 2002. I wasn't aware that there was a Restrictive Covenant at that time. The site currently has eight apartments within the school building now. I am in agreement with the Protective Overlay, and all the conditions recommended by staff.

**MOTION:** To approve removing Restrictive Covenant #18 subject to the Protective Overlay noted in staff's recommendation.

**JOHNSON** moved, **WELLS** seconded the motion, and it carried (9-0).

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5. **Case No.: ZON2003-02** – Mark E. & Jill M. Hames (owner/applicant) request Zone change from "SF-5" Single-family Residential to "MF-18" Multi-Family Residential for assisted living home on property described as:

Lot 32, except the North 150 feet, Park Acres Second, Sedgwick County, Kansas. Generally located at the northeast corner of Maple and Robin Road (254 S. Robin).

**BACKGROUND:** The applicant requests a zone change from "SF-5" Single-Family Residential to "MF-18" Multi-Family Residential on a 0.6 acre platted tract located at the northeast corner of Maple and Robin. The subject property is Lot 32, excluding the north 150 feet thereof, Park Acres 2<sup>nd</sup> Addition and is developed with a single-family residential structure that is currently used as a group home licensed by the State of Kansas as an adult care home. The Unified Zoning Code defines such a use as "Group Home, Limited", which is permitted by right in the "SF-5" Single-Family Residential zoning district. The applicant has requested the zone change to "MF-18" Multi-Family Family to provide the flexibility to operate an assisted living facility, which has fewer operational restrictions in the zoning regulations and is permitted a sign to advertise the business. An assisted living facility is first permitted by right in the "MF-18" Multi-Family zoning district.

The surrounding area is characterized by mixed-use commercial, institutional, and residential development. The properties to the north are zoned "SF-5" Single-Family Residential and are developed with single-family residences. The properties to the south across Maple are zoned "LC" Limited Commercial and "SF-5" Single-Family Residential and are developed with apartments and a church. West of the subject property across Robin are a drive-in restaurant, a neighborhood shopping center, and a convenience store on properties zoned "LC" Limited Commercial. The properties to the east are zoned "MF-18" Multi-Family Residential, "B" Multi-Family Residential, and "NO" Neighborhood Office and are developed with multi-family and office uses.

Since the abutting property to the north is zoned "SF-5" Single-Family Residential, screening and buffer landscaping will be required along the north property line. The subject property likely meets the buffer landscaping requirements but does not meet the screening requirements. Screening may be provided along the north property line by decorative fencing, evergreen vegetation, or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the north property line. The subject property meets the compatibility setback requirement. Since the subject property has frontage along an arterial street, a landscaped street yard and parking lot screening will be required along the south property line for any new construction of buildings or parking areas. The street right-of-way, access controls, and utility easements do not meet current standards of the Subdivision Regulations and will need to be upgraded through dedications.

The subject property apparently does not meet the Unified Zoning Code parking requirements since numerous vehicles from the subject property park on Robin Road on a daily basis. The Unified Zoning Code parking requirement is one space per employee plus one space per resident that is permitted to drive. Parking in residential zoning districts cannot be located within the front or street side setback without approval of a Zoning Adjustment by the Planning Director and Zoning Administrator. For the subject property, any additional parking spaces required cannot be located closer than 25 feet from Maple or 20 feet from Robin without approval of a Zoning Adjustment, and if a Zoning Adjustment is approved, parking spaces could be located no closer than eight feet from either the south or west property line.

**CASE HISTORY:** The subject property is platted as a part of Lot 32, Park Acres 2<sup>nd</sup> Addition, which was recorded March 18, 1950. The zoning (Z-0846) of the west half of the subject property was changed from "LC" Light Commercial to "AA" One Family (now "SF-5") on February 10, 1967.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	Single-family residences
SOUTH:	"LC" & "SF-5"	Apartments, church
EAST:	"MF-18", "B", & "NO"	Multi-family, office
WEST:	"LC"	Drive-in restaurant, neighborhood shopping center, convenience store

**PUBLIC SERVICES:** The subject property has access to Maple, a four-lane arterial street with current traffic volumes of approximately 21,000 vehicles per day. Traffic volumes on Maple have grown in the last five years significantly faster than anticipated in the 2030 Transportation Plan. The proposed development would generate less than 100 trips in the peak hour; therefore, the City's Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. The subject property currently has public water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development; however, the Land Use Guide recommends a narrow sliver of lower density residential uses be located between commercial and medium density residential and office uses. Such a recommendation is inconsistent with the generally accepted planning practice uses becoming lower in intensity in a hierarchy. The Residential Locational Guidelines of the Comprehensive Plan recommend that high-density residential uses be located within walking distance of neighborhood commercial centers, parks, schools, and transportation routes. High-density residential uses also are recommended to be located along arterial streets. The subject property meets the Residential Locational Guidelines for high-density residential uses because it is adjacent to an arterial street and is within walking distance of a neighborhood commercial center, a park, several schools, and a bus route.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to meeting the following conditions within 60 days of approval:

1. The subject property shall comply with the Unified Zoning Code parking requirements.
2. Dedication by separate instrument of an additional two feet of utility easement along the entire length of east property line.
3. Dedication by separate instrument of complete access control for Maple along the entire length south property line.
4. Dedication by separate instrument of an additional 20 feet of street right-of-way for Maple along the entire length south property line.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by mixed-use commercial, institutional, and residential development. The zoning of most of the adjacent properties is "LC" Limited Commercial, "MF-18" Multi-Family Residential, and "NO" Neighborhood Office. The proposed zoning of the subject property is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-5" Single-Family Residential, and is currently developed with a single-family residential structure. Since the property to the west is zoned "LC" Limited Commercial and the property to the east is zoned "MF-18" Multi-Family Residential, the property is not suitably zoned to maintain a hierarchy of zoning among adjacent properties whereby zoning would become less intense as distance from the arterial intersection increased.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting the low -density residential area to north.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development; however, the Land Use Guide recommends a narrow sliver of lower density residential uses be located between commercial and medium density residential and office uses. Such a recommendation is inconsistent with the generally accepted planning practice uses becoming lower in intensity in a hierarchy. The Residential Locational Guidelines of the Comprehensive Plan recommend that high-density residential uses be located within walking distance of neighborhood commercial centers, parks, schools, and transportation routes. High-density residential uses also are recommended to be located along arterial streets. The subject property meets the Residential Locational Guidelines for high-density residential uses because it is adjacent to an arterial street and is within walking distance of a neighborhood commercial center, a park, several schools, and a bus route.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted if the dedication of additional utility easement, right-of-way, and access control are provided.

DONNA GOLTRY, Planning staff presented the staff report. Staff recommended approval with conditions.

MARNELL Has staff looked at that site for adequacy of parking on the property?

GOLTRY A screening and buffer (landscaping) area will be required along the north property line. The applicant will have to comply with the Unified Zoning Code parking requirements.

HENTZEN This is being used now as what?

GOLTRY Group Home, Limited.

HENTZEN How many persons are they authorized to have?

BISHOP Has the District Advisory Board V reviewed this case? Is it scheduled for D.A.B. or was the decision made not to schedule this for D.A.B.?

GOLTRY Staff did not feel it was necessary to go to the D.A.B. because there was lots of traffic already on Maple, its southern boundary; and it was felt the zoning would be appropriate due to the current zoning of LC with the Sonic Drive-in to the west, and the multi-family zoning with apartments to the east.

BISHOP The D.A.B. meeting could have cleaned up any neighborhood opposition at their meeting.

MILLER The Neighborhood Assistant to the City Council member receives the cases on the early warning notice beforehand. If they feel it is necessary to hear this case at the D.A.B. meeting, and our Planning staff did not D.A.B. the case, they will notify us that we should send it on to them. In this case, that has not happened.

JILL M HAMES, 539 WETMORE, WICHITA, KS 67209, Applicant: This is a family residential structure that is currently used as a group home licensed by the State of Kansas as an adult care home. We can have up to eight adults, as restricted by KDHE.

I wanted to put a sign up to advertise a little. That is why we are requesting the rezoning. The pictures on the screen would suggest we have more residents or employees than we do. But actually on the day Scott took those pictures we had a Hospice patient that was dying, and the family and friends had gathered together. Normally, there are not that many cars in the round drive in front of the house or on the street. Sonic will let us use some of their parking for our staff. There are three or four employees at the most at one time.

BISHOP This is a group home for seniors? They reside there?

HAMES Home Plus is not a group home. You may use that wording, but we are licensed for a maximum of eight residents all the way down to two. None of the residents drive. It is long term care for adults.

BISHOP It is not daycare from the standpoint of being dropped off and then picked up later in the day?

HAMES We do provide 24-hour nursing care for the elderly. But sometimes I will take daycare residences in.

BISHOP Are the parking spaces paved?

HAMES There is a place that is paved for eight cars on the side of the house.

BISHOP The parking spots are in a queued fashion?

HAMES It will hold eight cars.

WARREN Dale, could we have this use in "LC" zoning there?

MILLER Yes, "LC" permits residential uses, and multi-family.

WARREN The location that it is and its surroundings, I don't think that it will ever be developed as Multi-family. I wonder why it is not being requested to go "LC," that is what belongs.

MILLER Because it is a mid-mile location. It is not at the corner of a section line road. Robin is a residential street.

WARREN But it is out on Maple isn't it? Everything up and down Maple has gone commercial.

MILLER The Comprehensive Plan suggests that commercial uses should be located at the corners of section line roads. There, west of Robin--where you jump across there--then that fits in the category of stripping out Maple, and the Plan suggests that is a bad development pattern.

WARREN I think with that traffic, and the anticipated traffic, nobody will want to build multi-family. That property someday is going to go commercial. It has commercial across the street two ways.

GOLTRY The case was advertised and requested by the applicant for "MF-18".

HENTZEN What size of sign will they be able to put up?

GOLTRY I don't know the actual size without checking the Sign Code. It will be less than what is in "NO", "NR" and "GO", so it will be a relatively small sign.

HENTZEN Does the applicant agree with the four limitations that they have put on this rezone? You are in agreement with dedicating the right-of-way? Are you familiar with that?

HAMES Yes.

HENTZEN The City has made a good deal just so you get to put up a 2 X 4 sign.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**WARNER** moved, **Johnson** seconded the motion.

BISHOP I am going to vote against the motion because I don't think that the neighborhood had an opportunity to address the traffic issues at a D.A.B. meeting. The parking does not really look to me like it is sufficient, and I think some of the issues could be cleared up at a D.A.B. meeting. And I don't think the traffic issues have been addressed by staff.

WELLS I intend to support the motion because the way that I read the letter from the neighbor, the parking issue is more of a Sonic issue than it is this business. It looks like it is the people parking at Sonic along the road. That is what the letter says at least.

**MOTION** carried 8-1.

6. **Case No. ZON2003-03** – Kick'n Development Corporation c/o Paul Kelsey request a Zone change from "LC" Limited Commercial to "SF-5" Single-family Residential on property described as:

Beginning at the NE corner of Lot 1, Block 2, Dugan Industrial Third Addition, Sedgwick County, Kansas; thence southerly along the east line of said Lot 1, 323.45 feet; thence westerly perpendicular to the east line of said Lot 1, 424.98 feet to a point on the west line of said Lot 1; thence northerly along the west line of said Lot 1, 319.47 feet to the NW corner of said Lot 1; thence easterly along the north line of said Lot 1, 425.00 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located Northwest of K-42 – Maize intersection

**BACKGROUND:** The applicant is requesting that the 3.14 acre site currently zoned "LI" Limited Industrial be rezoned to "SF-5" Single-Family Residential. The site is located west of Maize Road and is part of the 55.6-acre Harvest Ridge Addition plat. The Harvest Ridge Addition, SUB2002-126, was approved by the MAPC at their February 6, 2003 meeting. The Harvest Ridge Addition plat will not go to the WCC until this zoning request is considered/approved and the platted area is annexed into the City of Wichita. An annexation request has been submitted. The remainder of the Harvest Ridge Addition is currently zoned "SF-20" Single-Family Residential. At the time of annexation that portion of the Harvest Ridge Addition that is zoned "SF-20" will be zoned "SF-5", thus matching this site's requested zoning of "SF-5". Prior to the site becoming part of the Harvest Ridge Addition it was part of Lot 1, Block 2, Dugan Industrial 3<sup>rd</sup> Addition. The site is vacant.

The surrounding area is primarily rural and used for agriculture, with any non-agricultural uses located around the K-42 – Maize Road intersection. The site is approximately 900-feet northwest of the intersection. The area east of Maize Road (and east of the site) and north and south of the intersection is located in the City of Wichita and is zoned "LI". There are scattered warehouses, manufacturing facilities and a truck terminal in this area, but most of the area is not developed. The area abutting the south side of the site is part of the Dugan Industrial 3<sup>rd</sup> Addition, is zoned "LI" and has a restaurant on part of it while the rest of the addition is vacant. North and west of the site the area is zoned "SF-20" and is used for agriculture, but 55.6 acres of it is in the Harvest Ridge Addition single-family residential development. Approximately ¾ southwest of the site is the small-unincorporated town of Schulte, which consist of a few single-family homes and a church with some church related buildings.

**CASE HISTORY:** The Dugan Industrial 3<sup>rd</sup> Addition was recorded with the Register of Deeds August 13, 1990. The Harvest Ridge Addition, SUB2002-126, was approved by the MAPC at their February 6, 2003 meeting. The Harvest Ridge Addition plat will not go to the WCC until this zoning request is considered/approved and the platted area is annexed into the City of Wichita. An annexation request has been submitted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Single-Family  
EAST: LI" Limited Industrial

Agriculture  
Warehouse, manufacturing, vacant

SOUTH: "LI" Limited Industrial  
WEST: "SF-20" Single-Family

Vacant, restaurant  
Agriculture

**PUBLIC SERVICES:** The site has direct access to Maize Road and, as part of the Harvest Ridge Addition, will have access to K-42. Currently Maize Road is a two-lane arterial at this location, but the 2030 Transportation Plan calls for it to be upgraded to a four-lane arterial. K42 is currently a four-lane expressway road at this location and the 2030 Transportation Plan has its maintaining its four-lane expressway status. Traffic counts are 10,500 ATD west of the intersection, 8,788 ATD east of the intersection and 1,883 ATD south of the intersection. There are no traffic counts north of the intersection. Access points and other traffic related issues were determined during the platting process of the Harvest Ridge Addition. A guarantee for water and sewer service to be extended to site was called out during the platting process.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "low density residential" development. The proposed zoning to "SF-5" is in conformance with the Land Use Guide of the *1999 Update to the Comprehensive Plan*.

**RECOMMENDATION:** Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to the plat being completed within a year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are two distinct areas around this site with Maize Road acting as the boundary between them. The land west of Maize Road and to the north, southwest and west of the site is zoned "SF-20". Currently, the majority of this area is in agricultural use. However the area is in transition to urban scale single-family residential development northwest of the K42 – Maize Road intersection. The 55.6-acre Harvest Ridge Addition, where the site is located, has been approved by the MAPC and has submitted request for annexation into the City of Wichita. There is another large, low-density single-family residential subdivision being planned that will abut the Harvest Ridge Addition's north side. The unincorporated town of Schulte, southwest of the site, has some single-family residential development in it and there is expansion of the Catholic Church's facilities in the town. The area east of Maize Road, which is zoned "LI", represents the western boundary of a large industrial development that is west of I-235, south of Kellogg, on either side of K-42 and anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. There is vacant land within the industrial area that can be developed.
2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "LI" use and could be developed accordingly, however the site had been vacant prior to its platting as the Dugan Industrial 3<sup>rd</sup> Addition in 1990 and is currently vacant. The recent approval by the MAPC of the Harvest Ridge Addition, where the site is located, makes its use as industrial property extremely doubtful.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Low density residential development is the best use for this site/area and the zoning change from "LI" to SF-5" on the site will begin to eliminate a misplaced area of "LI" zoning on the west side of Maize Road. Extensive undeveloped properties zoned "LI" are east of Maize Road.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The down-zoning request conforms to the recommended usage for the property as "low density residential".
5. Impact of the proposed development on community facilities: The proposed down zoning of the 3.14-acre site to "SF-5" when considered as part of the 55.6-acre low density single-family Harvest Ridge Addition will increase traffic and act as the catalyst for extension of municipal water and sewer into the area.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**JOHNSON** moved, **BISHOP** seconded the motion, and it carried (9-0).

7. **Case No. CON2003-01** - Bogdon Bonev (owner/applicant); Ferris Consulting c/o Greg Ferris (agent) request a Conditional Use to permit vehicle sales on property described as:

Lots 46, 48, 50 and 52, on Central Avenue, Stites Bros. Second Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally Located North of Central and west of Madison

**BACKGROUND:** The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on a 0.32 acre platted tract located at the northwest corner of Central and Madison (2118 E. Central). The subject property is zoned "LC" Limited Commercial and is developed with a vacant commercial building and a paved parking area. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" Limited Commercial zoning district. The applicant's agent submitted the attached letter as justification for the Conditional Use request.

The character of the neighborhood is that of local serving commercial uses along the Central corridor with residential uses located both north and south of the Central commercial corridor. The zoning of the properties to the south, east, and west is "LC" Limited Commercial, and the zoning of the properties to the north is "TF-3" Two-Family. The properties to the north across the alley are developed with single-family residences. The properties to the south across Central are developed with retail businesses and a vehicle repair shop. The properties to the east across Madison are developed with medical offices. The properties to the west are developed with offices and retail businesses.

The applicant submitted the attached site plan showing the proposed use of the subject property as a vehicle sales lot. The site plan shows a 1,200 square foot sales office and 8,500 square feet of vehicle display and storage area. The site plan shows five employee/customer parking spaces, which meets the Unified Zoning Code parking requirement. The site plan shows a 900 square foot landscaped street yard along Central that meets the requirements of the Landscape Ordinance. The site plan shows landscape buffering along the north property line that meets the requirements of the Landscape Ordinance. The site plan shows a six-foot high screening fence along the north property line that meets the Unified Zoning Code screening requirement. The site plan shows two lights located no higher than 14 feet, which meets the Unified Zoning Code lighting standards. The site plan shows a trash receptacle located along the north property line, 20 feet from the residential property across the alley, and enclosed by a screening fence, which meets the Unified Zoning Code screening requirement and compatibility standard.

**CASE HISTORY:** The subject property is platted as Lots 46, 48, 50, and 52 of Stites Bro's. Second Addition, which was recorded on June 19, 1888.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3"	Single-family
SOUTH:	"LC"	Retail, vehicle repair
EAST:	"LC"	Medical offices
WEST:	"LC"	Office, retail

**PUBLIC SERVICES:** This subject property has access to Central, a five-lane arterial street with current traffic volumes of approximately 17,300 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Central will increase slightly to approximately 17,800 vehicles per day and recommends that Central remain a five-lane arterial street. The proposed development would generate less than 100 trips in the peak hour; therefore, the City's Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. Municipal water and sewer services are currently provided to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The subject property does not meet the Commercial Locational Guidelines because the subject property is over a mile from the central business district and is not considered part of the CBD fringe. Also, vehicle sales is not an established use in the area, with the nearest vehicles sale lot located eight blocks to the west on the other side of 4135 and within the CBD fringe. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies the subject property as being located within a Revitalization Area. The Comprehensive Plan indicates that Revitalization Areas are experiencing decline and need stabilization to increase the neighborhood's attractiveness for private investment in residential properties. Intensifying commercial uses in the area, as proposed by the applicant, is contrary to the neighborhood revitalization strategies in the Comprehensive Plan.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be DENIED.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of a local serving commercial corridor with low-density residential uses located behind the commercial businesses. Most of the property along Central is zoned "LC" Limited Commercial, with residential zoning in areas north and south of Central. Vehicle sales is not an established use in the area, and vehicle sales uses most commonly locate in areas where commercial properties are more regional serving. The proposed vehicle sales lot is not consistent with the zoning, uses, or character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for the commercial uses to which it has been restricted. Vehicle sales may be permitted in the "LC" district if the property is located along Kellogg, in the CBD fringe, or in a area where vehicle sales is an established use; however, the subject property does not meet these criteria and should remain zoned for local serving commercial businesses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales represents an intensification of the commercial uses along the Central corridor in this area. Allowing one commercial use to intensify in an area typically leads to nearby properties also requesting approval for more intense commercial uses. Over time, the intensification of commercial uses in a local serving commercial area tends to have

detrimental impacts on surrounding residential uses since the nearby businesses no longer serve primarily neighborhood residents. Commercial intensification leads to an increase in commercial traffic from outside the neighborhood, a decrease in neighborhood identity, and a general decline in the desirability of the nearby residential neighborhood.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The subject property does not meet the Commercial Locational Guidelines because the subject property is over a mile from the central business district and is not considered part of the CBD fringe. Also, vehicle sales is not an established use in the area, with the nearest vehicles sale lot located eight blocks to the west on the other side of I-135 and within the CBD fringe. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies the subject property as being located within a Revitalization Area. The Comprehensive Plan indicates that Revitalization Areas are experiencing decline and need stabilization to increase the neighborhood's attractiveness for private investment in residential properties. Intensifying commercial uses in the area, as proposed by the applicant, is contrary to the neighborhood revitalization strategies in the Comprehensive Plan.

If after closing the public hearing the MAPC finds the request appropriate, the MAPC motion to approve will need to include findings of fact regarding the Unified Zone Code Review Criteria that support approval and planning staff recommends that approval be subject to the following conditions:

1. All requirements of Section III.D.6.x. (attached) of the Unified Zoning Code shall be met.
2. The applicant shall dedicate by separate instrument complete access control except for one opening along the property's Central frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. Parking spaces for employees and customers shall be marked and designated for employees and customers and shall not be used for display of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be used in conjunction with any use not directly related to such a business unless sufficient parking spaces for such a business are provided per a site plan approved by the Planning Director.
4. The applicant shall submit a landscape plan for approval by the Planning Director that meets all landscaped street yard and landscape buffer requirements of the Landscape Ordinance.
5. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed before the vehicle sales lot becomes operational.
6. The applicant shall obtain all permits necessary to make the required site and landscaping improvements, and all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
7. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

DONNA GOLTRY, Planning staff presented the staff report.

WARREN Approximately what address on East Central is that?

GOLTRY Please note that this case will go to D.A.B. on March 3, 2003. The address is 2118 E. Central. It is at Central and Madison.

WARREN The reason I ask is, because I know there is a automobile agency at the 1400 Block of East Central.

GOLTRY That would be about eight blocks away.

HENTZEN Isn't there a car repair office or shop next to this place?

GOLTRY Yes, across from the street to the southwest. There is also an auto clutch repair business that is down the street about a block and half. Both of those are auto repair; they are not vehicle sales.

HENTZEN Are they required to be a Conditional Use?

GOLTRY No, the Zoning Code does not require "auto repair, limited" as a Conditional Use. It is a use of right. Auto repair, limited is considered to be a local-serving retail use.

FERRIS CONSULTING, GREG FERRIS. P O BOX 573, WICHITA, KS 67201: This location is well suited for vehicle sales. I know staff doesn't like vehicle sales lots anywhere but on Broadway and Kellogg. However, look at the Comprehensive Plan and look at the Commercial Locational Guidelines. They encourage similar uses or auto related uses to be together. This is clearly a place where there are considerable auto related uses. There is one across the street and one down the block. These are areas that are not landscaped. They have collections of cars. While they are not for sale, they certainly could be mistaken for auto sales lots without too much difficulty.

Less than 2 ½ blocks away is "General Commercial" zoning, and as you know, in "General Commercial" zoning you could put a car lot in. It is on the east side of the canal. So there is "General Commercial" zoning that is in place that you could put car lots in that is on the east side of the canal. So I think this area is suited for vehicle sales. The other thing that is happening on this lot because, first of all, there is traffic on Central and I don't believe that is scheduled for widening immediately as far as we know. Vehicle sales lots are a less intensive traffic use than traditional "Light Commercial" things that could operate here, and could generate considerably more traffic. We have no problem with the condition of dedicating access control. Which, again, this lot does not have an (opening), and could be developed into a drive-through restaurant. It could have another driveway, which would be, again, a more intensive use then what is being proposed here.

We know staff likes not to have car lots except in the designated areas. This would be very well suited in their minds. There will be landscaping. It is far better than what is there now. It will be an improvement to this area. Staff thought that medical offices were moving this way, but we are not going to be spending too much money on this project that it could not be developed as a medical office--that the price of this lot would not be changed much because there will be a car lot on there now. This is an improvement on Central. Central is 100 percent commercial at this time.

JOHNSON Do you know, on the site plan, how many cars would be for sale on this lot?

FERRIS No, I don't know that, but I don't think we will have too many on there. We will not be striping this lot. We sent out a long notification list to the surrounding neighbors. It was two pages long, and for a lot this small, and nobody was here and I don't think there is opposition to this case.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**WARREN** moved, **ANDERSON** seconded the motion.

BISHOP The notice that was sent out--did that include the D.A.B. meeting date on it? My suggestion is that a lot of neighbors will wait for the D.A.B. meeting to express their concerns.

**MOTION** carried 8-1. **BISHOP** opposed.

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8. **Case No. DR2003-04** - The City Of Park City Seeks Annexation Of Properties Located South Of 93<sup>rd</sup> Street North And West Of Hydraulic Avenue, Adjacent To The City Of Park City.

After review by staff, it has been concluded that the proposed annexation areas are compatible with the Wichita-Sedgwick County Comprehensive Plan and the adopted Comprehensive Development Plan for the City of Park City.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**JOHNSON** moved, **BISHOP** seconded the motion, and it carried (9-0).

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9. **Case No. DR2003-05** - The City Of Garden Plain Seeks Annexation Of Properties Located West Of West Street Between Able Street And W. Mt. Vernon Road, Adjacent To The City Of Garden Plain

After Review By Staff, It Has Been Concluded That The Proposed Annexation Areas Are Compatible With The Wichita-Sedgwick County Comprehensive Plan And The Adopted Comprehensive Development Plan For The City Of Garden Plain.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**JOHNSON** moved, **BISHOP** seconded the motion, and it carried (9-0).

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10. **Case No. DR2003-06** - The City Of Kechi Seeks A nnexation Of Properties Located East Of Hillside Avenue And North Of 61<sup>st</sup> Street North, Adjacent To The City Of Kechi

After Review By Staff, It Has Been Concluded That The Proposed Annexation Areas Are Compatible With The Wichita-Sedgwick County Comprehensive Plan, The Adopted Community Development Plan For Park City And The Adopted Community Development Plan For The City Of Kechi.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**JOHNSON** moved, **BISHOP** seconded the motion, and it carried (9-0).

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11. **Other Matters**

**BISHOP** Can staff give us information about how the M.P.O. is coming along and what is happening with that group and when we will webe getting a report?

**MILLER** Jamsheed is putting a report together, and I think will present it sometime in March.

**HENTZEN** I think we should give them the time that they need.

**BISHOP** I agree. We just have not heard anything yet--no updates or anything.

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The Metropolitan Area Planning Department informally adjourned at 2:30 p.m.

State of Kansas)  
Sedgwick County) <sup>ss</sup>

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Dale Miller, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)